



IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated : This the 5th day of June, 1998

BEFORE

THE HON'BLE MR.JUSTICE KUMAR RAJARATNAM

WRIT PETITION NO.27911 OF 1996

BETWEEN :

Smt. Mamajuni, Adult,  
w/o Maulana Dastagiri  
Saheb, residing at  
Nadupalli of Gangolli  
village, Kundapura, D.K.

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PETITIONER

(By Sri Sampath Anand  
Shetty, Advocate)

AND

1. The Karnataka Appellate Tribunal, repled., by its Chairman, M.S.Buildings Bangalore-1.
2. The Joint Director of Fisheries, Ex-Officio Joint Registrar of Co-operative Societies Directorate of Fisheries Bangalore.
3. The Managing Director South Kanara District Co-Operative Fish Marketing Federation Ltd., Mangalore.
4. Moulana Dastagiri Saheb adult, s/o Moulana Sheik Saheb, near post office, Gangolli, D.K.District.

RESPONDENTS

(By Sri B.Veerappz, HCGP  
for R-1 & R-2; R-3 and  
R-4 served)

This Writ Petition is filed under Articles 226 and 227 of the Constitution of India praying to quash Annexure-A dated 22.7.96 passed by R-1 in appeal No.420/95 and grant petitioner such other and further reliefs.

The petition coming on for preliminary hearing in B-Group this day, the Court made the following :-

O R D E R

The writ petition is taken up with the consent of parties.

2. The petitioner in this writ petition challenges the order passed by the 1st respondent-Tribunal at Annexure-A in Appeal No.420/95. The petitioner was the appellant before the 1st respondent in Appeal No.420/1995. The appeal before the 1st respondent was directed against the order passed by the 2nd respondent in a dispute, whereby the 2nd respondent confirmed the conditional order of attachment in respect of the land bearing No.99/5 measuring 28 guntas situated at Gangolli village, Kundapur.

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3. The facts, very briefly, are the Society filed a dispute under Section 70 of the Karnataka Co-operative Societies Act for recovery of the sum of Rs.95,755.75 from the 4th respondent. Pursuant to this, an ex parte order of attachment before the award was passed on 28.1.1995. The petitioner in this writ petition submitted that the impugned order does not satisfy the requirements of Section 103 of the K.C.S. Act and the documents produced by the petitioner before the Tribunal proves that she is the owner of the land in question and that the Tribunal was not justified in ignoring the pendency of the civil dispute before the Civil Court. The learned counsel for State submitted that the dispute and the appeal is not maintainable as the petitioner is not a party to the petition under Section 70 of the Act and ~~admittedly~~ <sup>the</sup> the land in question stands in the name of the 4th respondent and that the 4th respondent has set up the petitioner to

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challenge the order of attachment. The Tribunal further held that it is always open for the petitioner to approach the Civil Court to redress her grievances, if any, in accordance with law.

4. Since the petitioner is not a member of the Society and since the property admittedly stands in the name of the 4th respondent, the Tribunal was perfectly justified in passing the order of attachment. In that view of the matter no interference is called for. The writ petition is dismissed. There is no order as to costs.



Sd/-  
JUDGE